

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DARREL WAYNE VANDERGRIFF

Plaintiff,

v.

TONY GAMBONE *et al.*,

Defendants.

Case No. C06-5381RBL

ORDER DENYING MOTION
FOR APPOINTMENT OF
COUNSEL

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Before the court is plaintiff's motion for appointment of counsel (Dkt. # 33).

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate their his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. The court has not yet

1 evaluated this cases on the merits. However, it appears that this case does not involve exceptional
2 circumstances which warrant appointment of counsel. Accordingly, the motion for appointment of counsel
3 (Dkt. # 33) is **DENIED**.

4 The Clerk is directed to send a copy of this Order to plaintiff, and to defendants counsel and to
5 remove (Dkt. # 33) from the court's calendar.

6 DATED this 9TH day of November 2006.

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8 /s/ J. Kelley Arnold
9 J. Kelley Arnold
10 United States Magistrate Judge
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